UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

SHARP CORPORATION,

Plaintiff,

v.

HISENSE CO., LTD., HISENSE USA CORPORATION, HISENSE ELECTRIC CO., LTD., and HISENSE USA MULTIMEDIA R&D CENTER, INC.,

Defendants.

Case No. 1:17-cv-4381

Removed from the Supreme Court of State of New York for the County of New York, Index No. 652589/2017

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1441(d) (FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976)

PLEASE TAKE NOTICE that Defendant Hisense Co., Ltd. ("Hisense") hereby removes this action, commenced by Plaintiff Sharp Corporation ("Sharp") in the Supreme Court of the State of New York, to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1441(d).

Hisense makes a limited appearance for the purpose of removal only and reserves all rights and defenses, including but not limited to asserting its sovereign immunity and challenging personal jurisdiction.

In support of this Notice of Removal, Hisense states as follows:

PROCEDURAL HISTORY AND BACKGROUND

1. On May 12, 2017, Plaintiff Sharp Corporation filed a Summons and Complaint against Hisense and certain other defendants in the Supreme Court of the State of New York for the County of New York in an action styled *Sharp Corp. v. Hisense Co., Ltd.*, *et al.*, Index No. 652589/2017 (the "State Court Action"). The Complaint asserts a single claim for unlawful, unfair, and fraudulent business practices under New York General Business Law Article 22-A §§ 349 and 350 for alleged conduct that is the subject of a pending arbitration in the Singapore International Arbitration Centre ("SIAC").

2. As required by 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders received by Hisense in connection with the State Court Action are attached to this notice of removal as Exhibit A.

BASIS FOR REMOVAL

3. Hisense removes the entire State Court Action to this Court under the Foreign Sovereign Immunities Act ("FSIA"). The FSIA grants federal district courts original jurisdiction over any civil action against a "foreign state," as that term is defined in § 1603. 28 U.S.C. § 1330(a). Foreign states have the right to remove any civil action from a state court to a federal court. 28 U.S.C. § 1441(d).

4. The FSIA defines a "foreign state" to include an "agency or instrumentality" of a foreign state. 28 U.S.C. § 1603(a). An "agency or instrumentality" of a foreign state is an entity

which: (1) has a separate legal identity; (2) is either an "organ of a foreign state or political subdivision" or, as relevant here, has a "majority of . . . shares or other ownership interest [] owned by a foreign state or political subdivision thereof"; and (3) is neither a citizen of the United States nor created under the laws of any third country. 28 U.S.C. § 1603(b).

5. Hisense is an "agency or instrumentality" of the Qingdao Municipal Government, a political subdivision of China. Specifically, Hisense is a separate limited liability company, wholly-owned by a political subdivision of the Chinese government, created pursuant to Chinese law, and is neither a citizen of the United States nor any third country. Thus, as a foreign state under the FSIA, Hisense may unilaterally remove the entire State Court Action to this Court.

6. As an alternative and independent basis in addition to the FSIA, the action is subject to removal based on federal question jurisdiction, under 28 U.S.C. §§ 1331 and 1441(a), in that the claims in the complaint are substantially predicated on alleged violations of federal laws and regulations, including the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), 16 C.F.R., Part 410, and the Federal Communications Act, 47 U.S.C. §§ 151 et seq., 47 C.F.R. 15.109.

VENUE

7. Plaintiff's State Court Action is pending in the Supreme Court of the State of New York for the County of New York, which is within this judicial district and division. 28 U.S.C. § 112(b). The United States District Court for the Southern District of New York is, therefore, the proper venue for removal. 28 U.S.C. § 1446(a).

REMOVAL IS TIMELY

8. Hisense received notice of this action on May 12, 2017 and Hisense sought removal within 30 days of such date. Accordingly, this notice of removal is timely filed. 28 U.S.C. § 1446(b) ("The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise.").

NOTICE

9. As required by 28 U.S.C. §1446(d), Hisense is serving written notice of this notice of removal on Plaintiff and filing a copy of it with the clerk of the Supreme Court of the State of New York for the County of New York.

NON-WAIVER OF DEFENSES

10. Hisense expressly reserves all of its defenses. By removing this action to this Court, Hisense does not waive any rights or defenses available under federal or state law. Hisense expressly reserves the right to move for dismissal of the Complaint pursuant to Rule 12 of the Federal Rules of Civil Procedure, and this Notice of Removal is not an Answer or other response to the Complaint pursuant to Rule 12 of the Federal Rules of Civil Procedure. Nothing in this Notice of Removal should be taken as an admission that Plaintiff's allegations are sufficient to state a claim or have any substantive merit, or that the courts of New York or of the United States have jurisdiction over these claims or Hisense.

Dated: June 9, 2017
New York, New York

WHITE & CASE LLP

By: *___/s/ David G. Hille___*
David G. Hille
Gregory M. Starner
Lynn M. Kaiser

WHITE & CASE, LLP
1221 Avenue of the Americas
New York, New York 10020
(212) 819-8200

Attorneys for Defendant
Hisense Co., Ltd.